

REMARKS

Amendments to the Claims

Claims 1-78 are pending. The Applicant respectfully asks the Examiner to replace all prior versions and listings of claims in the present application with the listing of claims currently provided. Claims 34-78 were canceled due to the Examiner's restriction requirement. Claims 2, 3, 5-15 and 23-27 were withdrawn due to the Examiner's species election. The Applicant states that all amended claims do not add new subject matter to the present specification.

Restriction Requirement pursuant to 35 U.S.C. §121

The Examiner has restricted the present application under 35 U.S.C. §121 as allegedly lack of unity by disclosing 4 independent and distinct inventions designated Group I (Claims 1-33), II (Claims 33-36), Group III (Claims 37-76) and IV (Claims 77 and 78). The Applicants elect to prosecute Examiner's Group I (Claims 1-33).

The Examiner has also restricted the present application under 35 U.S.C. §121 alleging that the Group I invention contains fifteen (15) patentably distinct species as claimed in Claims 2-15 and Claims 23-27. See June 20, 2008 Office Action at p. 3. The Applicant elects Claim 4 (mammalian receptor for BoNT/A).

The species election against Claims 2 and 3 is respectfully traversed. Claims 2 and 3 are directed towards whether a BoNT/A receptor is transiently or stably contained within the cell. This aspect of the Group I invention does not represent a different general inventive concept because both claims are still within the same inventive concept of detecting BoNT/A activity and do not represent a mammalian BoNT/A receptor different from that of Claim 4. Thus, the Applicants respectfully request rejoinder of Claims 2 and 3.

As a separate matter, the species election against Claims 5-8 is respectfully traversed. The elected species of Claim 4 is directed toward a mammalian receptor for BoNT/A. Claims 5-8 are directed towards four kinds of mammalian receptors for BoNT/A (human, bovine, mouse and rat). As such these claims should be examined since that fall within the currently

examined claim scope of a mammalian receptor for BoNT/A. Thus, the Applicants respectfully request rejoinder of Claims 5-8.

As another matter, the species election against Claims 23-27 is respectfully traversed. Claims 23-27 are directed towards non-neuronal cells expressing an exogenous BoNT/A receptor. This aspect of the Group I invention does not represent a different general inventive concept because all claims are still within the same inventive concept of detecting BoNT/A activity and do not represent a mammalian BoNT/A receptor different from that of Claim 4. Thus, the Applicants respectfully request rejoinder of Claims 23-27.

The Applicant has withdrawn claims covering non-elect species without prejudice and reserve the right to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim pursuant to 37 C.F.R. § 1.141.

CONCLUSION

For the above reasons the Applicant respectfully submits that the claims are in condition for allowance, and the Applicant respectfully urges the Examiner to issue a Notice to that effect. Should there be any questions, the Examiner is invited to call the undersigned agent. Please use Deposit Account 01-0885 for the payment of any extension of time fees pursuant to 37 C.F.R. § 1.136 or any other fees due in connection with the current response.

Respectfully submitted,

/Dean G. Stathakis/

Dean G. Stathakis, Ph.D.
Registration No. 54,465
Agent of Record



ALLERGAN

LEGAL DEPARTMENT

2525 Dupont Drive
Irvine, California 92612-1599
Tel: 714/246-6521
Fax: 714/246-4249